

The Hall, 2<sup>nd</sup> Floor, Memorial Hall Library, 2 N. Main Street, Andover

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Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime (Associate Members)

The meeting opened at 7:00 p.m.

**Petition No.: 3957**

**Premises affected: 400 S. Main St.**

**Petitioner: Andover School of Montessori**

**Members: Anderson (Chair); McDonough (Clerk); Brown, Batchelder (Members); Baime (Associate Member)**

There was a request to continue the case to the February meeting. Brown made a motion to continue the hearing to the regular February meeting. Baime seconded the motion and the Board voted (5-0) to continue the hearing.

**Petition No.: 3970**

**Premises affected: 30 Juliette St**

**Petitioner: Roberge**

**Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime (Associate Members)**

Mr. Sullivan represented the petitioner's request to construct an addition that will not conform to the front setback. The existing house is 9' from the front lot line. The hardship is related to the shape of the house on the lot & the existing non-conforming front setback. The proposed addition is a single story, although the plot plan incorrectly states that it will be two. The Board waived a site view. McDonough made a motion to close the hearing. Brown seconded the motion & the Board voted (7-0) to close the hearing.

Jeton & Ranalli sat off the remainder of the hearing. The Board then proceeded to deliberate. Batchelder made a motion to approve a special permit with the condition that the addition is only one storey high. McDonough seconded the motion. Brown added that the usual conditions of conformance to the plot plan submitted be added to the approval. The Board voted (5-0) to approve the special permit with conditions. Batchelder will write the decision.

**Petition No.: 3960**

**Premises affected: 6 & 9 Newport Circle**

**Petitioner: Stilkat**

**Present were: Brown (Acting Chair); Jeton (Acting Clerk); McDonough (Member); Ranalli and Baime (Associate Members)**

Attorney Mark Johnson was present for the continued public hearing regarding a violation of Section 8.1.7.1. He submitted a letter from Norse Environmental summarizing Maureen Hanley's soil test. Ms. Hanley presented her findings to the Board: top & sub soils are still present; no evidence of excavation, clearing or filling was found. The Inspector of Buildings was not present to comment. There were no further public comments or questions. Jeton made a motion to close the public hearing. Baime seconded the motion & the Board voted (5-0) to close the public hearing. The Board then proceeded to deliberate.

The Board considered the request for review of the Inspector of Building's decision as a Party Aggrieved. The Board agreed that there was no evidence of erosion or slope disturbance in excess of 15% & that tree stumps were still in place. Jeton stated that the issue is what the Inspector feels is disturbance, but the Board has not heard from them at

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either hearing. Ranalli made a motion to find in favor of the petitioner as Party Aggrieved & to overturn the Inspector of Building's decision regarding violation of Section 8.1.7.1. Jeton seconded the motion & the Board voted (5-0) to overturn the Inspector. Jeton then made a motion to dismiss the request for a variance as moot. Baime seconded the motion & the Board voted (5-0) to dismiss the variance request as moot. Jeton will write the decision.

**Petition No.: 3971**

**Premises affected: 40 Chester Street**

**Petitioner: Goyette**

**Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime (Associate Members)**

Al & Nancy Goyette represented themselves in their variance request to reconstruct & extend a deck that was damaged by a fallen tree. The house was built in 1985. The rear deck provides the only access to the back yard. Upon refinancing, a non-conformity to the rear setback was discovered. The existing deck is 10'x14'. The proposed deck is 10x10 with an attached 10x14 screen porch. The lot is asymmetrically shaped & slopes in the rear, leaving no alternate location for the deck & porch. Trees & an abutter's fence also line the rear of the lot. Alan Smeltzer, 57 Tewksbury St, immediate abutter to the rear spoke in favor. The Board discussed the hardship related to necessary egress provided by the deck & the fact that the statute of limitations on the existing house, built with a permit in 1985, has run out. Most of the proposed construction will conform to the 30' rear setback requirement. The proposed deck is slightly higher, but no closer to the rear lot line. The Board waived a site view. Brown made a motion to close the public hearing. Jeton seconded the motion & the Board voted (7-0) to close the hearing. McDonough sat off the remainder of the case. The Board then proceeded to deliberate.

Batchelder made a motion to grant a variance with the condition that it is constructed in conformance with the plans submitted. Brown seconded the motion stating that the shape of the lot is the hardship. The Board voted (5-0) to grant the variance conditions. Ranalli will write the decision.

**Petition No.: 3973**

**Premises affected: 34 Gray Rd**

**Petitioner: Batchelder**

**Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime (Associate Members)**

Doug Batchelder was present to request for a variance from 4.1.2 &/or a special permit under 3.3.5 to construct a front addition that will not meet the front setback. Also present was architect, Joanna Reck. The house does not meet the minimum 50' front setback & the garage / mudroom addition will not increase the non-conformity. The house was built in 1930 on a lot that slope upwards towards the rear. Conservation wetlands & grading issues on the other side of the house present difficulties for an addition. Anderson noted that there is a screened porch on one side of the house & a leech field in the front yard that also restricts the location of an addition. Reck showed the Board photos of the lot. It has been reviewed by Preservation Commission. McDonough made a motion to close the public hearing. Batchelder seconded the motion & the Board voted unanimously to close the hearing. The Board then proceeded to deliberate the matter.

Brown made a motion to grant a special permit with the condition that it shall be constructed in conformance with the plans. Batchelder seconded the motion & the Board voted unanimously to grant the special permit with condition.

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Ranalli will be the designated alternate. Brown made a motion to deny the variance as moot. Jeton seconded the motion & the Board voted unanimously to deny variance as moot.

Anderson disclosed that he had three children attend Pike School. Jeton & McDonough also disclosed that they had two children attend Pike School. There were no objections to their participating in the following public hearing.

**Petition No.: 3968**

**Premises affected: 34 Sunset Rock Rd**

**Petitioner: Pike School**

**Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime (Associate Members)**

Jay Kahn, of The Sign Center, presented the petition along with Michelle Carey & Mark Razziano. The variances requested are from Art. VIII, §§5.2.5.1, 5.2.1.a & b, 5.2.5.4, & 5.2.b.1.b. The proposed sign would exceed the maximum allowed area & be internally illuminated; replacing the existing non-conforming sign located more than 200' from the lot lines & perpendicular to the road. The proposed sign will replace the manual message center currently in use. The proposed message center will be 18.5 sq. ft. in area. No light will be emitted from the sign that will be detectable off the school property. It will not be a detriment to the neighborhood or town. The proposed sign will be 27 sq. ft. where a maximum of 25 sq. ft. is allowed & will only be operated during the school day or events, never between 9 pm and 6 am. The Board discussed restricting the school from use of flashing, scrolling or animated messages. It was agreed to by school representatives. The 1-sided sign will only be visible on site upon exiting. There being no other questions or comments from the Board or the public, Brown made a motion to close the public hearing. Ranalli seconded the motion & the Board voted (6-0) to close the hearing. Ranalli sat off the remainder of the case. The Board deliberated.

Brown made a motion to grant a variance in accordance with the plans submitted with the condition that the sign have only one face, visible to oncoming traffic, the sign shall not flash, scroll or animate messages & that there shall not be illumination of the sign between 9pm – 7 am or on Saturday / Sunday, except if/when the school holds an event. McDonough seconded the motion. Batchelder voiced opposition against lighting. Brown noted that the entire school exists by variance. Anderson added that it was constructed prior to the Dover Amendment. Brown made a motion to deny the requested special permit as moot. McDonough seconded the motion & the Board voted unanimously to grant the variance & deny the special permit as moot. Jeton will write the decision.

**Petition No.: 3972**

**Premises affected: 34 Park St**

**Petitioner: Salvatore's**

**Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime (Associate Members)**

Chris Smith, business partner of Salvatore Lupoli (owner), presented the application for a special permit to allow take-out service at this new sit-down restaurant. The Board discussed the location & parking issues, as well as the number of seats in the restaurant vs. take-out. Smith explained that the take-out area will be small with the busiest time being lunch. It will comprise of approximately 10-15% of the overall business. There'll be 120 seats, even though the plan incorrectly depicts 147. The take-out is a critical element of the business. Rick Pruneau, owner of Park Street Pub, voiced concern over the small parking lot with only 27 spaces, not the 32 represented on the plan, & the overflow parking on adjacent lots that impacts his business. The Board discussed parking concerns – on-site & on adjacent lots. Mr. Smith offered to refrain from erecting 'take-out only' signs to maximize customer parking & regulate customer parking.

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Attorney Andrew Caffrey voiced the same concerns on behalf of Sam Petrovich, of Dylan's Restaurant. He urged the Board to deny the request & to require dedicated take-out spots. Smith noted recent bylaw changes for off-street parking requirements: for the 4800 sq. ft. space, 9 spaces are required. The Board asked for some spaces to be dedicated to take-out to be submitted by the applicant on a revised plan demonstrating that they will meet the parking requirements. Attorney Elliot Aaronson, 33 Park St., voiced concern over traffic issues. The Board discussed delivery schedules for 34 Park Street. There being no further questions or comments from the Board or the public, McDonough made a motion to continue the public hearing to the 2/2/12 meeting with the requirement of submitting the requested parking plan for the entire building & that the applicant speaks with abutters to resolve overflow parking issues. Brown seconded the motion & the Board voted (6-0) to continue the hearing to 2/2/12.

**Petition No.: 3969**

**Premises affected: 209 N. Main St.**

**Petitioner: Andover Food, Inc.**

**Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime (Associate Members)**

Jaspreet & Balvinder Pablo represented their request for a special permit under Art. VIII, §3.1.3.C.12.a to operate a sit-down restaurant & a variance from Art. VIII, §3.1.3.C.12.b to allow take-out food service. The 2,000 sq. ft. location is in Shawsheen Plaza, formerly a card store, will be converted into a restaurant with 65 seats, including a bar. The Board discussed the percentage of take-out business (20%), parking (large lot, no assigned spaces & no designated take-out parking spaces) & that other restaurants operate in the Plaza. There being no other questions or comments from the Board or the public, Jeton made a motion to close the public hearing. Batchelder seconded the motion & the Board voted unanimously to close the hearing. Brown sat off the remainder of the hearing. The Board then proceeded to deliberate.

Batchelder made a motion to approve the special permit for the sit-down restaurant use & the variance for take-out. Jeton noted that the Mixed Use District was overlaid since the other restaurants were established. McDonough seconded the motion. Ranalli questioned why the variance is necessary. Jeton voiced concern over setting a precedent if the variance is granted. Anderson argued that the hardship relates to the lay-out of the space relative to the plaza buildings & the siting of the buildings on the lot itself. This particular unit is alley-shaped & is placed uniquely in the Plaza itself minimizing redevelopment in the Mixed Use District. Anderson restated the motion to approve the special permit & variance. Batchelder seconded it & the Board voted (5-0) to approve the special permit & variance. Anderson will write the decision.

Anderson recused himself from the remainder of the meeting & left.

**Petition No.: 3967**

**Premises affected: 170R River Road**

**Petitioner: Sprint Spectrum**

**Present were: Brown (Acting Chair); McDonough (Clerk); Jeton, Batchelder (Members); Ranalli (Associate Member)**

Eric Kalio represented the applicant in their request to add 6 new multi-modal antennas & 9 remote radio heads. They will also swap the existing equipment cabinet with a new one. The proposed antennas will be 6' high, while the existing are 4.5'. The Board discussed with Kalio the size of the proposed vs. existing cabinet & antennas, as well as RF compliance & structural adequacy of the tower for the larger antennas. Photo simulations were included in the application to indicate a similar visual impact to the existing installation, which blends in & will not constitute a big

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change. There being no other questions or comments from the Board or the public, Jeton made a motion to waive a site view & close the public hearing. Ranalli seconded the motion & the Board voted (5-0) to waive the view & close the hearing. The Board then proceeded to deliberate.

The Board noted the similarity of the proposed antennas to other wireless installations in town. McDonough made a motion to grant the special permit under Section 6.1. Batchelder seconded the motion & the Board voted (5-0) to grant the special permit. McDonough will write the decision.

**Petition No.: 3966**

**Premises affected: 311 Lowell Street**

**Petitioner: Sprint Spectrum**

**Present were: Brown (Acting Chair); McDonough (Clerk); Jeton, Batchelder (Members); Ranalli (Associate Member)**

Eric Kalio represented the applicant's request for a special permit under Section 6.1 to swap an existing equipment cabinet & replace 6 antennas with multi-modal antennas & radio heads. There is no proposed increase in the total number of antennas. The structural analysis is in progress. An RF statement is included in the application as well as photo simulations demonstrating that the visual impact is similar to the existing installation. The Board discussed the pole capacity noting that the structural engineer's report in the application states that the pole has insufficient capacity. The Board requested structural certification. Kalio explained that the report in progress will instruct Sprint what must be added structurally to address the structural issues. Brown emphasized the requirement of structural certification being submitted to the Building Inspector prior to issuance of a building permit. Kalio agreed to have the submittal of said certification as a condition of the ZBA's approval. There being no other questions or comments from the Board or the public, McDonough made a motion to close the hearing. Batchelder seconded the motion & the Board voted (5-0) to close the hearing.

McDonough made a motion to approve the special permit with the condition that the structural certification is submitted to the Building Inspector. Batchelder seconded the motion & the Board voted (5-0) to approve the special permit with conditions. McDonough will write the decision.

There being no other business of the Board, Jeton made a motion to adjourn the meeting. Ranalli seconded the motion and the Board voted unanimously to adjourn the meeting. The Board then adjourned the meeting at 9:32 p.m.